

Spending Public Funds for Advocacy

The Board of Education recognizes that C.G.S. [9-369b](#) prohibits the expenditure of municipal funds to influence a vote on a pending referendum question. This includes the dissemination of printed materials and the preparation of video and website presentations. The Superintendent is directed to avoid violating this prohibition which applies to in-kind expenditures as well as direct expenditures of money. Individuals violating this prohibition are personally liable.

The Board recognizes that public funds may be expended concerning a referendum when the following conditions are met:

1. By vote of the legislative body, the town/city may authorize the preparation, printing and dissemination of concise explanatory texts or other printed material concerning referenda proposals. The Town Clerk is responsible for preparing the text which shall specify the intent and purpose of each proposal or question. Such explanatory text shall not advocate either the approval or disapproval of the proposal or question. The town's legislative body may also authorize the preparation and printing of materials concerning any referendum proposal or question in addition to the explanatory text. Such materials are also subject to the approval of the Board of Selectmen and must be neutral, advocating neither approval nor disapproval of the proposal or referendum question.

For any referendum called for by the Regional School District, the Regional School Board of Education shall authorize the preparation, printing and dissemination of concise explanatory texts or other printed material with respect to proposals or questions approved for submission to the electors of the municipalities included in the regional school district at a referendum. For any such referendum, only the Regional School Board of Education shall make any such authorization. Each such explanatory text shall be prepared by the Regional School Board of Education and shall specify the intent of each referendum proposal or question. Such explanatory text shall not advocate the approval or disapproval of the referendum proposal or question. Each such explanatory text is subject to the approval of the Regional School Board's attorney. The Regional Board's Secretary shall also undertake any other duty of the municipal clerk as described in this statute.

Any such other printed material shall be prepared by the person or persons so authorized by the Regional Board of Education. Such material shall not advocate either the approval or disapproval of the referendum proposal or question and is also subject to the approval of the attorney of the Regional Board of Education.

2. A public official may expend public funds to prepare a written, printed or typed summary of his/her view on a referendum issue and distribute that summary to the news media at a bona fide press conference. Such a summary may express support or opposition to the referendum question. The summary may be provided upon request to members of the public. Public funds may not be used to provide for a general distribution of the summary.

3. The Superintendent or Board members may respond to a constituent request for information concerning the referendum, including personal views.
4. The town via public ordinance may provide for the preparation and printing of concise summaries of arguments in favor of, and arguments opposed to, local proposals or questions approved for submission to the electors of the town at a referendum. The ordinance must provide for a committee to prepare such summaries, with members representing the various viewpoints. The committee shall provide an opportunity for public comment on such summaries to the extent practicable. Such summaries must be approved by a vote of the town's legislative body or any other municipal body designated by the ordinance, and posted and distributed by the Town Clerk. Each summary shall contain language clearly stating that the printing of the summary does not constitute an endorsement by or represent the official position of the municipality.
5. The School District will not use its automated calling system, electronic mail, text, telephone or other electronic or automated means for the purpose of reminding or encouraging parents/guardians and students about the time, date and place concerning referenda and encouraging them to vote. This prohibition shall not apply to a regularly published newsletter or similar publication.
6. The community notification system, maintained by the town, at the direction of the chief elected official of such town, or with respect to a referendum called by a regional school district, the request of the chairperson of the regional board of education having jurisdiction over such town involved in the regional school district, may be used to send or publish a notice informing all residents enrolled in the notification system of the time and location of the referenda, a statement of the question as it appears on the ballot or referendum and any other approved material. Such notice shall not advocate approval or disapproval of the proposal or attempt to influence the outcome of the referendum.
7. The website maintained by the town or the Regional School District is not a community notification system. Such website may contain notice pertaining to the referendum as described above in item #6.
8. Third party comments posted on social media or on websites maintained by the state, town or the Regional School District do not constitute an expenditure of state or municipal funds to influence the outcome of a referendum.

Note: Only a community notification system may be used for the limited purpose of reminding voters of the time and location of upcoming referenda, the ballot question itself, and any other previously authorized explanatory text describing the subject matter of the question. Any such notice shall not advocate the approval or disapproval of the proposal or question or attempt to influence or aid the success or defeat of the referendum.

Note: "Community notification systems" are defined as systems maintained by a municipality that are available to all residents of the municipality and permit any resident to opt to receive notifications of

community events or news. Only the chief elected official of the municipality can authorize the use of such a system for this purpose. With respect to a referendum called by a regional school district, the chairperson of the regional school board may request the chief elected official of the municipality in which the regional school district resides to use such a system.

The Board recognizes that school officials and Board members retain their First Amendment rights to express their position on the proposed school budget or other referendum questions. The prohibition contained in this policy only pertains to the expenditure of public funds.

It is further recognized that individuals, individually or collectively, can spend private funds to advocate for a referendum result, as they see fit, as permitted by the regulations of the State Elections Enforcement Commission.

The Board further recognizes the statutory right of any community member to bring a complaint if such individual claims to have been aggrieved in connection with a referendum by (1) an election official's ruling, (2) a mistake in the vote count, or (3) a violation of prohibited acts concerning absentee voting. A person may file a complaint with any judge of the Superior Court.

Legal Reference: Connecticut General Statutes

[§-355](#) Official neglect or fraud

[§-357](#) Fraudulent registration

[§-358](#) False swearing before registrar, moderator or board

[§-359](#) Absentee ballots

[§-359a](#) False statement in absentee balloting. Class D felony

[§-360](#) Fraudulent voting

[§-361](#) Primary or enrollment violations

[§-369b](#) Local questions and proposals. Explanatory text. Use of community notification systems. Expenditures of state and municipal funds to influence vote prohibited. Preparation and printing of certain materials permitted. Civil penalty. Summaries of arguments for, against local questions (as amended by PA 00-92, PA 04-117, PA 13-247 and PA 15-173)

Approved: March 10, 2020

NORTH CANAAN BOARD OF EDUCATION
North Canaan, Connecticut

Spending Public Funds for Advocacy

1. Spending Public Funds to Inform Citizens Regarding Referenda

Section [9-369b\(a\)](#), Connecticut General Statutes is the exclusive method by which a municipality or regional school district could expend public funds for printing and distribution of information concerning a referendum question. It sets forth the following conditions for such expenditure:

- a. A vote of the municipality's legislative body is needed to authorize the preparation, printing and dissemination of concise "explanatory text" or other printed material with respect to a referendum;
- b. The preparation of the explanatory text must be made by the municipal clerk and approved by the municipal attorney;
- c. The explanatory text shall specify the intent and purpose of each referendum or question; and
- d. Such explanatory text shall not advocate either the approval or the disapproval of the referendum proposal or question.

Materials in addition to the explanatory text may now be prepared and printed with public funds if they (1) do not advocate either the approval or disapproval of the referendum; (2) are authorized by vote of the local legislative body; and (3) are approved by the municipal attorney. The notices may also include other neutral printed material approved for submission to electors on a municipal or regional school district referendum.

In a municipality that has a town meeting as its legislative body, the Board of Selectmen shall be deemed to be the legislative body of such municipality.

Pursuant to C.G.S. [9-369b\(b\)](#), for any referendum called for by a regional school district, the Regional Board of Education shall authorize the preparation and printing of concise explanatory texts of proposals or questions approved for submission to the electors of a municipality at a referendum. The Secretary of the Regional School Board shall prepare such explanatory text, which is subject to the approval of the school Board's counsel. The Regional Board's Secretary shall also undertake any other duty of the municipal clerk as described in this statute.

Regional district school boards are authorized (P.A. 15-173) to print and disseminate neutral printed material, in addition to explanatory texts, about regional school district referenda. Such material must be approved by the board's attorney. The material must be prepared by a person authorized by the regional school board or municipal legislative body, whichever applies.

2. Expenditure of Public Funds for Advocacy Prohibited When a Referendum is Pending

With two exceptions discussed below, no expenditure of state, municipal or regional school district funds can be made to influence any person to vote for approval or disapproval of any referendum question. The ban applies when a referendum is pending.

A referendum question is pending when the necessary legal conditions have been satisfied to require the publication of the warning (notice) of the referendum. For example, a referendum is pending when a sufficient number of signatures have been certified by the Town Clerk under C.G.S. [7-7](#) or when the selectmen, or other authorized government official, have determined that a referendum will be conducted.

3. Pro-Con Summaries

By ordinance, a municipality may provide for the preparation and printing of concise summaries of arguments in favor of and opposed to a referendum question for which an explanatory test is prepared under Section 9-369b(a) or (b). The ordinance must provide for a committee to prepare these summaries. Other conditions for this exception are specified in Section [9-369b\(d\)](#).

4. Press Releases and Constituent Responses Permitted

The other exception is that an official can express his/her views on pending referendum at a bona fide news conference, and may use public funds, facilities, and supplies to prepare a press release to be disseminated at the conference. Also, an official may use public funds, facilities and supplies to respond to a constituent request for information concerning the referendum, including the official's views. The exception is lost, however, if the official responds to the citizen's request with the knowledge that the response will be disseminated to others in the community.

In addition, the maintenance of a third-party comment posted on social media or on an Internet website maintained by the state, a municipality or a regional school district permitting such third-party comments shall not constitute an expenditure of state or municipal funds.

5. Children in School as Couriers

Children in school may not be used as couriers of information that advocates a position on a referendum. A notice limited to the time, place and question to be voted upon may be sent home to parents via children in school.

6. Use of School Teachers, Administrators, Facilities, Supplies, and Equipment Prohibited

The prohibition on state and municipal funds also applies to the use of school facilities, supplies, and equipment and postal permits to advocate a position on a referendum. For example, parent teacher organizations and school administrators may not use school equipment to prepare or copy advocacy material even if the town, regional district or school system is reimbursed for such use. This

prohibition also extends to the use of a school's public address system to advocate a result of a referendum.

7. Use of School Facilities by Outside Political Committees and Organizations for Meetings or Rallies

School facilities may not be used by political committees or other groups for the purpose of advocating a position on a referendum unless such facilities are accessible to all such committees or groups on a non discriminatory basis. A charge can be made for the use of school facilities for this purpose and all groups or committees must be charged the same.

8. What Constitutes Advocacy?

A communication advocates a position on a referendum when in part, or taken as a whole, it urges the listener or reader to vote in a particular manner. The style, tenor, and timing of a communication are factors which are considered by the Commission when reviewing alleged improprieties of Section [9-369b](#).

9. Civil Penalties for Violations

The State Elections Enforcement Commission may impose a civil penalty against any official who violates Section [9-369b\(a\)](#), in an amount not exceeding twice the amount of the improper expenditure or \$1,000, whichever is greater. The official is personally liable for the penalty and cannot be reimbursed or indemnified by the state, regional school district or municipality for payment of a civil penalty.

10. Political Committees to Promote Referenda

Under Chapter 150 of the General Statutes, public officials and citizens alike may join together to advocate their views on a referendum by registering a political committee with the clerk of the municipality in which the referendum is to be held. Upon its registration, the political committee is permitted to solicit, receive and expend private funds to promote the success or defeat to a referendum question. If less than \$1,000 is expected to be collected or spent, a group may file a certification of exemption in lieu of a political committee registration form.

11. Independent Personal Expenditures

Any citizen or public official may independently (acting alone) make expenditures of his/her own funds to promote the success or defeat of a referendum question without forming a political committee in conformance with Chapter 155, Connecticut General Statutes. However, once such individual spends more than \$1,000 to promote the success or defeat of a referendum question, s/he must file statements according to the same schedule and in the same manner as is required of a campaign treasurer of a political committee under Section [9-608](#).

12. Use of Automated Calling Systems

The school district is not allowed to use its automated calling system, electronic mail, text, telephone or other electronic or automated means for the purpose of reminding or encouraging parents/guardians and students about the time, date and place concerning referenda and encouraging them to vote. This prohibition shall not apply to a regularly published newsletter or similar publication.

The Board of Education of a regional school district, through its chairperson, may request that their member municipalities use their community notification systems to notify enrolled residents of an upcoming regional school district referendum.

Note: Only a community notification system may be used for the limited purpose of reminding voters of the time and location of upcoming referenda, the ballot question itself, and any other previously authorized explanatory text describing the subject matter of the question. Any such notice shall not advocate the approval or disapproval of the proposal or question or attempt to influence or aid the success or defeat of the referendum.

An Internet website maintained by a municipality or regional school district shall not be deemed a community notification system and may contain a notice of an upcoming municipal or regional school district referendum.

Note: "Community notification systems" are defined as communication systems maintained by a municipality that are available to all residents of the municipality and permit any resident to opt to receive notifications of community events or news from such municipality via electronic mail, text, telephone or other electronic automated means. Only the chief elected official of the municipality can authorize the use of such a system for this purpose.

Legal Reference: Connecticut General Statutes

[§-333j](#) Statements to be filed by campaign treasurers. Treatment of surplus or deficit. Filing dates.

[§-369](#) Procedure for holding referendum.

[§-369a](#) Submission of local questions at election.

[§-369b](#) Local questions and proposals. Explanatory text. Use of community notification systems. Expenditures of state and municipal funds to influence vote prohibited. Preparation and printing of certain materials permitted. Civil penalty. Summaries of arguments for and against local questions (as amended by PA 00-92, PA 04-117, PA 13-247 and PA 15-173)

Regulation approved: March 10, 2020

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